

HellerEhrman

ATTORNEYS

1666 K Street, N.W., Suite 300
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Facsimile Transmittal

RECEIVED
 CENTRAL FAX CENTER

APR 13 2004

OFFICIAL

To: Examiner Karen Canella - USPTO (Group 1642)
Telephone: (571) 272-0828
Fax: (703) 305-3014

From: Patricia D. Granados (User ID: 4871)
Telephone: (202) 912-2142
Fax: (202) 912-2020

No. of Pages: 14 (including cover)
Date: April 13, 2004
Matter No.: 24741-1529

Message:

Re: U.S. Serial No. 09/890,649 (Michael DAHM et al.)
 "Method for the Enrichment or Depletion of Tumor Cells
 from a Body Fluid and Kit Suitable Therefor"
 Our Reference: 24741-1529

Pursuant to your request, following is a copy of the signed Declaration and Power of Attorney for the above-captioned matter which was filed on October 26, 2001, in response to the September 5, 2001, Notification of Missing Requirements. A copy of the date stamped receipt card is also attached. Please do not hesitate to contact us if you require any additional information.

The undersigned hereby certifies that the attached copy of Response to Missing Requirements filed October 26, 2001, is being facsimile transmitted to Examiner Canella at the USPTO, Group 1642, at (703) 305-3014.

April 13, 2004
 Date

Kristy Canales
 Kristy Canales

The information contained in this communication is intended only for the use of the addressee and may be confidential, may be attorney-client privileged and may constitute inside information. Unauthorized use, disclosure or copying is strictly prohibited, and may be unlawful. If you have received this communication in error or you have not received all pages, please call the sender immediately at (202) 912-2154.

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 5/24/04

Heller Ehrman White & McAuliffe
1666 K Street, N.W.
Suite 300
Washington, D.C. 20006

Date: October 26, 2001

Docket No.: 24741-1529

U.S. Serial No. 09/890,649

In the name of DAHM et al.

Title: METHOD FOR THE ENRICHMENT OR DEPLETION OF TUMOR CELLS FROM A BODY FLUID AND KIT
SUITABLE THEREFOR

The "Received" stamp of the U.S. Patent & Trademark Office hereon acknowledges receipt of the following documents:

1. PTO Form 1390
2. Fie Transmittal Sheet
3. Copy of PTO Form PCT/DO/BO/905
4. Executed Declaration and Power of Attorney
5. Information Disclosure Statement
6. Cited Refs. - 13 and Int'l. Search Report
7. Check ~~DO 000001~~ for \$130.00

File in Mail Room Return to PDG/KL/kh
Due Date: November 5, 2001

Inspected by:



kmc ✓

PTO/SB/17 (10-01)
Approved for use through 10/31/2002. OMB 0651-0032

U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

FEE TRANSMITTAL for FY 2002

Patent fees are subject to annual revision.

TOTAL AMOUNT OF PAYMENT (\$ 130)

Complete if Known	
Application Number	09/890,649
Filing Date	October 26, 2001
First Named Inventor	Michael W. DAHM
Examiner Name	Unassigned
Group / Art Unit	Unassigned
Attorney Docket No.	24741-1520

METHOD OF PAYMENT (check one)

1. The Commissioner is hereby authorized to charge indicated fees and credit any over payments to:

Deposit Account Number: 08-1541

Deposit Account Name:

Charge Any Additional Fee Required Under 37 CFR 1.16 and 1.17

Applicant claims small entity status. See 37 CFR 1.27

2. Payment Enclosed:

Check Credit card Money Order Other

FEE CALCULATION

1. BASIC FILING FEE

Large Entity Fee Code (\$)	Small Entity Fee Code (\$)	Fee Description	Fee Paid
101	201	370 Utility filing fee	<input type="text"/>
106	306	165 Design filing fee	<input type="text"/>
107	510	207 255 Plant filing fee	<input type="text"/>
108	740	208 370 Reissue filing fee	<input type="text"/>
114	160	214 80 Provisional filing fee	<input type="text"/>
SUBTOTAL (1)			(\$ 0)

2. EXTRA CLAIM FEES

Total Claims	Independent Claims	Extra Claims	Fee from below	Fee Paid
52	-20 **	= 32	X <input type="text"/>	= 0
3	-3 **	= 0	X <input type="text"/>	= 0
			X <input type="text"/>	= 0
SUBTOTAL (2)			(\$ 0)	

** or number previously paid, if greater; For Reissues, see above

FEE CALCULATION (continued)					
Fee Code	Large Entity Fee (\$)	Small Entity Fee (\$)	Fee Description	Fee Paid	
105	130	205	65 SurchARGE - late filing fee or oath	130.00	
127	50	227	25 SurchARGE - late provisional filing fee or cover sheet		
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147	2,520	147	2,520 For filing a request for reexamination		
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113	1,840*	113	1,840* Requesting publication of SIR after Examiner action		
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116	400	216	200 Extension for reply within second month		
117	920	217	480 Extension for reply within third month		
118	1,440	218	720 Extension for reply within fourth month		
128	1,960	228	980 Extension for reply within fifth month		
119	320	219	180 Notice of Appeal		
120	320	220	160 Filing a brief in support of an appeal		
121	280	221	140 Request for oral hearing		
138	1,510	138	1,510 Petition to institute a public use proceeding		
140	110	240	55 Petition to revive - unavoidable		
141	1,260	241	840 Petition to revive - unintentional		
142	1,260	242	840 Utility issue fee (or reissue)		
143	480	243	230 Design issue fee		
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122	130	122	130 Petitions to the Commissioner		
123	50	123	50 Processing fee under 37 CFR 1.17 (q)		
126	180	126	180 Submission of Information Disclosure Stmt		
581	40	581	40 Recording each patent assignment per property (times number of properties)		
146	740	246	370 Filing a submission after final rejection (37 CFR § 1.129(a))		
149	740	249	370 For each additional invention to be examined (37 CFR § 1.129(b))		
179	740	279	370 Request for Continued Examination (RCE)		
169	900	169	900 Request for expedited examination or a design application		
Other fee (specify)					
*Reduced by Basic Filing Fee Paid				SUBTOTAL (3)	(\$ 130)

SUBMITTED BY

Name (Print/Type)	Patricia D. Granados	Registration No. Attorney/Agent	33,683	Telephone	(202) 912-2000
Signature	<i>Patricia D. Granados</i>			Date	October 26, 2001

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

U.S. APPLICATION NO. (If known, see 37 C.F.R. 1.50) 03/890,649	INTERNATIONAL APPLICATION NO. PCT/EP00/00831	ATTORNEY'S DOCKET NUMBER 24741-1529
17. <input checked="" type="checkbox"/> The following fees are submitted:		CALCULATIONS <small>PTO USE ONLY</small>
Basic National Fee (37 CFR 1.492(a)(1)-(5): Neither international preliminary examination fee (37 CFR 1.482) nor International search fee (37 CFR 1.445(a)(2)) paid to USPTO and International Search Report not prepared by the EPO or JPO..... \$1000.00		
International preliminary examination fee (37 CFR 1.482) not paid to USPTO but International Search Report prepared by the EPO or JPO..... \$860.00		
International preliminary examination fee (37 CFR 1.482) not paid to USPTO but international search fee (37 CFR 1.445(a)(2)) paid to USPTO..... \$710.00		
International preliminary examination fee (37 CFR 1.482) paid to USPTO but all claims did not satisfy provisions of PCT Article 33(1)-(4)..... \$690.00		
International preliminary examination fee (37 CFR 1.482) paid to USPTO and all claims satisfied provisions of PCT Article 33(1)-(4)..... \$100.00		
ENTER APPROPRIATE BASIC FEE AMOUNT = <small>Surcharge of \$130.00 for furnishing the oath or declaration later than 20 ___ 30 <input checked="" type="checkbox"/> months from the earliest claimed priority date (37 CFR 1.492(e))</small>		
CLAIMS	NUMBER FILED	NUMBER EXTRA
Total Claims	- 20	52
Independent Claims	- 3	3
MULTIPLE DEPENDENT CLAIM(S) (if applicable)		
TOTAL OF ABOVE CALCULATIONS = <small>Applicants claim small entity status. See 37 CFR 1.27. The fees indicated above are reduced by 1/2.</small>		
SUBTOTAL = <small>Processing fee of \$130.00 for furnishing English translation later than 20 ___ 30 ___ months from the earliest claimed priority date (37 CFR 1.492(f)).</small>		
TOTAL NATIONAL FEE = <small>Fee for recording the enclosed assignment (37 CFR 1.21(h)). The assignment must be accompanied by an appropriate cover sheet (37 CFR 3.28, 3.31). \$40.00 per property +</small>		
TOTAL FEES ENCLOSED =		
		Amount to be: refunded \$
		charged: \$

a. A check in the amount of \$130.00 to cover the above fees is enclosed.

b. Please charge my Deposit Account No. 08-1641 in the amount of \$ to the above fees. A duplicate copy of this sheet is enclosed.

c. The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Deposit Account No. 08-1641. A duplicate copy of this sheet is enclosed.

NOTE: Where an appropriate time limit under 37 CFR 1.494 or 1.495 has not been met, a petition to revive (37 CFR 1.137(a) or (b)) must be filed and granted to restore the application to pending status.

SEND ALL CORRESPONDENCE TO:

HELLER EHRMAN WHITE & MCAULIFFE, LLP
1666 K Street, NW, Suite 300
Washington, DC 20006
Tel: (202) 912-2000
Fax: (202) 912-2020


45,278
SIGNATURE

NAME: PATRICIA D. GRANADOS

REGISTRATION NUMBER: 33,683

DATE: OCTOBER 26, 2001

FORM PTO-1390 (Modified) REV 5-13		U.S. DEPARTMENT OF COMMERCE PATENT AND TRADEMARK OFFICE		ATTORNEY'S DOCKET NUMBER	
TRANSMITTAL LETTER TO THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US) CONCERNING A FILING UNDER 35 U.S.C. 371				24741-1529	
				U.S. APPLICATION NO. (If known, see 37 C.F.R. 1.5) 09/890,649	
INTERNATIONAL APPLICATION NO. PCT/EP00/00831	INTERNATIONAL FILING DATE 02/02/00		PRIORITY DATE CLAIMED 02/03/99		
TITLE OF INVENTION: METHOD FOR THE ENRICHMENT OR DEPLETION OF TUMOR CELLS FROM A BODY FLUID AND KIT SUITABLE THEREFOR					
APPLICANT(S) FOR DO/EO/US Michael W. DAHM, Robert C. PHELPS, Carsten BROCKMEYER					
Applicant herewith submits to the United States Designated/Elected Office (DO/EO/US) the following items and other information:					
<p>1. <input type="checkbox"/> This is a FIRST submission of items concerning a filing under 35 U.S.C. 371.</p> <p>2. <input checked="" type="checkbox"/> This is a SECOND or SUBSEQUENT submission of items concerning a filing under 35 U.S.C. 371.</p> <p>3. <input type="checkbox"/> This express request to begin national examination procedures (35 U.S.C. 371(f)) at any time rather than delay examination until the expiration of the applicable time limit set in 35 U.S.C. 371(b) and PCT Articles 22 and 39(1).</p> <p>4. <input type="checkbox"/> A proper Demand for International Preliminary Examination was made by the 19th month from the earliest claimed priority date.</p> <p>5. <input type="checkbox"/> A copy of the International Application as filed (35 U.S.C. 371©(2))</p> <p>a. <input type="checkbox"/> is transmitted herewith (required only if not transmitted by the International Bureau).</p> <p>b. <input type="checkbox"/> has been transmitted by the International Bureau.</p> <p>c. <input type="checkbox"/> is not required, as the application was filed in the United States Receiving Office (RO/US)</p> <p>6. <input type="checkbox"/> A translation of the International Application into English (35 U.S.C. 371©(2)).</p> <p>7. <input type="checkbox"/> Amendments to the claims of the International Application under PCT Article 19 (35 U.S.C. 371©(3))</p> <p>a. <input type="checkbox"/> are transmitted herewith (required only if not transmitted by the International Bureau).</p> <p>b. <input type="checkbox"/> have been transmitted by the International Bureau.</p> <p>c. <input type="checkbox"/> have not been made; however, the time limit for making such amendments has NOT expired.</p> <p>d. <input type="checkbox"/> have not been made and will not be made.</p> <p>8. <input type="checkbox"/> A translation of the amendments to the claims under PCT Article 19 (35 U.S.C. 371©(3)).</p> <p>9. <input checked="" type="checkbox"/> An oath or declaration of the inventor(s) (35 U.S.C. 371©(4)).</p> <p>10. <input type="checkbox"/> A translation of the annexes to the International Preliminary Examination Report under PCT Article 36 (35 U.S.C. 371©(5)).</p>					
Items 11. to 16. below concern other document(s) or information included:					
<p>11. <input checked="" type="checkbox"/> An Information Disclosure Statement under 37 CFR 1.97 and 1.98.</p> <p>12. <input checked="" type="checkbox"/> An assignment document for recording. A separate cover sheet in compliance with 37 CFR 3.28 and 3.31 is included.</p> <p>13. <input type="checkbox"/> A FIRST preliminary amendment. <input type="checkbox"/> A SECOND or SUBSEQUENT preliminary amendment.</p> <p>14. <input type="checkbox"/> A substitute specification.</p> <p>15. <input type="checkbox"/> A change of power of attorney and/or address letter.</p> <p>16. <input checked="" type="checkbox"/> Other items or information: Transmittal of Missing Parts of Patent Application with copy of Form PCT/DO/EO/905</p>					

PTO/SB/17 (10-01)

Approved for use through 10/31/2002. OMB 0851-0032

U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

FEE TRANSMITTAL for FY 2002

Patent fees are subject to annual revision.

TOTAL AMOUNT OF PAYMENT (\$ 80

Complete If Known

Application Number	09/890,649
Filing Date	October 26, 2001
First Named Inventor	Michael W. DAHM
Examiner Name	Unassigned
Group / Art Unit	Unassigned
Attorney Docket No.	24741-1529

26633

METHOD OF PAYMENT (check one)				FEE CALCULATION (continued)																																																																																																																																																																																													
<p>1. <input checked="" type="checkbox"/> The Commissioner is hereby authorized to charge indicated fees and credit any over payments to:</p> <p>Deposit Account Number <input type="text" value="08-1641"/></p> <p>Deposit Account Name <input type="text"/></p> <p><input type="checkbox"/> Charge Any Additional Fee Required Under 37 CFR 1.16 and 1.17</p> <p><input type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27</p>				<p>3. ADDITIONAL FEES</p> <table border="1"> <thead> <tr> <th>Large Entity Fee Code (\$)</th> <th>Fee (\$)</th> <th>Small Entity Fee Code (\$)</th> <th>Fee (\$)</th> <th>Fee Description</th> <th>Fee Paid</th> </tr> </thead> <tbody> <tr><td>105</td><td>130</td><td>205</td><td>65</td><td>Surcharge - late filing fee or oath</td><td></td></tr> <tr><td>127</td><td>50</td><td>227</td><td>25</td><td>Surcharge - late provisional filing fee or cover sheet</td><td></td></tr> <tr><td>139</td><td>130</td><td>139</td><td>130</td><td>Non-English specification</td><td></td></tr> <tr><td>147</td><td>2,520</td><td>147</td><td>2,520</td><td>For filing a request for reexamination</td><td></td></tr> <tr><td>112</td><td>920*</td><td>112</td><td>920*</td><td>Requesting publication of SIR prior to Examiner action</td><td></td></tr> <tr><td>113</td><td>1,840*</td><td>113</td><td>1,840*</td><td>Requesting publication of SIR after Examiner action</td><td></td></tr> <tr><td>115</td><td>110</td><td>215</td><td>55</td><td>Extension for reply within first month</td><td></td></tr> <tr><td>116</td><td>400</td><td>216</td><td>200</td><td>Extension for reply within second month</td><td></td></tr> <tr><td>117</td><td>920</td><td>217</td><td>460</td><td>Extension for reply within third month</td><td></td></tr> <tr><td>118</td><td>1,440</td><td>218</td><td>720</td><td>Extension for reply within fourth month</td><td></td></tr> <tr><td>128</td><td>1,960</td><td>228</td><td>980</td><td>Extension for reply within fifth month</td><td></td></tr> <tr><td>119</td><td>320</td><td>219</td><td>160</td><td>Notice of Appeal</td><td></td></tr> <tr><td>120</td><td>320</td><td>220</td><td>160</td><td>Filing a brief in support of an appeal</td><td></td></tr> <tr><td>121</td><td>280</td><td>221</td><td>140</td><td>Request for oral hearing</td><td></td></tr> <tr><td>138</td><td>1,510</td><td>138</td><td>1,510</td><td>Petition to Institute a public use proceeding</td><td></td></tr> <tr><td>140</td><td>110</td><td>240</td><td>55</td><td>Petition to revive - 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SUBMITTED BY

Name (Print/Type)	Patricia D. Granados	Registration No. Attorney/Agent)	33,683	Telephone	(202) 912-2000
Signature			Date	October 26, 2001	

Attorney Docket No.: 24741-1529

DECLARATION AND POWER OF ATTORNEY

As a below named inventor, I HEREBY DECLARE:

THAT my residence, post office address, and citizenship are as stated below next to my name;

THAT I believe I am the original, first, and sole inventor (if only one inventor is named below) or an original, first, and joint inventor (if plural inventors are named below or in an attached Declaration) of the subject matter which is claimed and for which a patent is sought on the invention entitled

**METHOD FOR THE ENRICHMENT OR DEPLETION OF TUMOR CELLS FROM A BODY FLUID
AND KIT SUITABLE THEREFOR**

the specification of which (check one)

is attached hereto.

was filed on 02 February 2000 as PCT International Application Number PCT/EP00/00831

THAT I do not know and do not believe that the same invention was ever known or used by others in the United States of America, or was patented or described in any printed publication in any country, before I (we) invented it;

THAT I do not know and do not believe that the same invention was patented or described in any printed publication in any country, or in public use or on sale in the United States of America, for more than one year prior to the filing date of this United States application;

THAT I do not know and do not believe that the same invention was first patented or made the subject of an inventor's certificate that issued in any country foreign to the United States of America before the filing date of this United States application if the foreign application was filed by me (us), or by my (our) legal representatives or assigns, more than twelve months (six months for design patents) prior to the filing date of this United States application;

THAT I have reviewed and understand the contents of the above-identified specification, including the claim(s), as amended by any amendment specifically referred to above;

THAT I believe that the above-identified specification contains a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the invention, and sets forth the best mode contemplated by me of carrying out the invention; and

THAT I acknowledge the duty to disclose to the U.S. Patent and Trademark Office all information known to me to be material to patentability as defined in Title 37, Code of Federal Regulations, §1.56.

I HEREBY CLAIM foreign priority benefits under Title 35, United States Code §119(a)-(d) or § 365(b) of any foreign application(s) for patent or inventor's certificate, or §365(a) of any PCT international application which designated at least one country other than the United States of America, listed below and have also identified below any foreign application for patent or inventor's certificate or of

Attorney Docket No.: 24741-1529

any PCT international application having a filing date before that of the application on which priority is claimed.

Prior Foreign Application Number	Country	Foreign Filing Date	Priority Claimed?	Certified Copy Attached?
19904267.5	Germany	03 February 1999	Yes	No

I HEREBY CLAIM the benefit under Title 35, United States Code § 119(e) of any United States provisional application(s) listed below.

U.S. Provisional Application Number	Filing Date

I HEREBY CLAIM the benefit under Title 35, United States Code, §120 of any United States application(s), or § 365(c) of any PCT international application designating the United States of America, listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States or PCT International application in the manner provided by the first paragraph of Title 35, United States Code, § 112, I acknowledge the duty to disclose information which is material to patentability as defined in Title 37, Code of Federal Regulations, § 1.56 which became available between the filing date of the prior application and the national or PCT international filing date of this application.

U.S. Parent Application Number	PCT Parent Application Number	Parent Filing Date	Parent Patent Number

I HEREBY APPOINT the following registered attorneys and agents of the law firm of Heller Ehrman White & McAuliffe to have full power to prosecute this application and any continuations, divisions, reissues, and reexaminations thereof, to receive the patent, and to transact all business in the United States Patent and Trademark Office connected therewith:

PAUL BOOTH	Reg. No. 40,244
PATRICIA D. GRANADOS	Reg. No. 33,683
JOHN P. ISACSON	Reg. No. 33,715
RONALD J. KAMIS	Reg. No. 41,104
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Attorney Docket No.: 24741-1529

and I request that all correspondence be directed to:

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I UNDERSTAND AND AGREE THAT the foregoing attorneys and agents appointed by me to prosecute this application do not personally represent me or my legal interests, but instead represent the interests of the legal owner(s) of the invention described in this application.

I FURTHER DECLARE THAT all statements made herein of my own knowledge are true, and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

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Attorney Docket No.: 24741-1529

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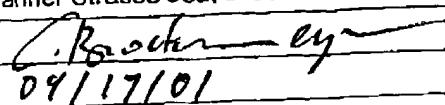
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Date

09/17/01